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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/655,571	09/04/2003	John A. Sazy	101896-706 (DEP-128CON)	6429
21125 7590 08/24/2010 NUTTER MCCLENNEN & FISH LLP SEAPORT WEST 155 SEAPORT BOULEVARD BOSTON, MA 02210-2604			EXAMINER PELLEGRINO, BRIAN E	
			ART UNIT 3738	PAPER NUMBER
			NOTIFICATION DATE 08/24/2010	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docket@nutter.com

**Advisory Action**  
**After the Filing of an Appeal Brief**

Application No.

10/655,571

Applicant(s)

SAZY, JOHN A.

Examiner

Brian E. Pellegrino

Art Unit

3738

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

The reply filed 09 August 2010 is acknowledged.

1. ☐ The reply filed on or after the date of filing of an appeal brief, but prior to a final decision by the Board of Patent Appeals and Interferences, will not be entered because:

a. ☐ The amendment is not limited to canceling claims (where the cancellation does not affect the scope of any other pending claims) or rewriting dependent claims into independent form (no limitation of a dependent claim can be excluded in rewriting that claim). See 37 CFR 41.33(b) and (c).

b. ☐ The affidavit or other evidence is not timely filed before the filing of an appeal brief.  
See 37 CFR 41.33(d)(2).

2. ☐ The reply is not entered because it was not filed within the two month time period set forth in 37 CFR 41.39(b), 41.50(a)(2), or 41.50(b) (whichever is appropriate). Extensions of time under 37 CFR 1.136(a) are not available.

Note: This paragraph is for a reply filed in response to one of the following: (a) an examiner's answer that includes a new ground of rejection (37 CFR 41.39(a)(2)); (b) a supplemental examiner's answer written in response to a remand by the Board of Patent Appeals and Interferences for further consideration of rejection (37 CFR 41.50(a)(2)); or (c) a Board of Patent Appeals and Interferences decision that includes a new ground of rejection (37 CFR 41.50(b)).

3. ☐ The reply is entered. An explanation of the status of the claims after entry is below or attached.

4. ☒ Other: The reply is not entered because according to MPEP 1214.01 an amendment with new claims without amending rejected claims or substituting for rejected claims is inappropriate and not entered. The application is forwarded to the Board of Patent Appeals and Interferences.

/Brian E Pellegrino/  
Primary Examiner, Art Unit 3738